

6. This matter was assigned to Mark A. Sipek, Hearing Officer, who issued an Interim Order granting the motion to dismiss with respect to the reprimand issue. This Order was issued on September 5, 2012. The September 5, 2012 Order is incorporated into this Order as the Hearing Officer's recommendation regarding the reprimand claims.

7. This appeal went forward to a pre-hearing conference on October 26, 2012, at which the Hearing Officer informed the Appellant she had the right to a hearing on the issue in which she alleged she had been denied, abridged or impeded the right to inspect or copy records. After a discussion of this issue, the Appellant stated on the record that she did not wish to pursue the open records claim to an evidentiary hearing. The Hearing Officer informed the parties he would issue a Recommended Order incorporating the earlier Interim Order so this matter could proceed to the Personnel Board.

FINDINGS OF FACT

1. The Hearing Officer adopts all Findings of Fact in the Interim Order regarding this appeal dated September 5, 2012, which is attached to this Order.

2. At the pre-hearing conference on October 26, 2012, the Appellant stated on the record she did not wish to pursue her claim regarding being denied, abridged or impeded the right to inspect or copy records. She could also not identify any specific records which she had requested which she had been denied by the Appellee.

CONCLUSIONS OF LAW

1. The Hearing Officer adopts the conclusions of law stated in the Interim Order regarding this appeal dated September 5, 2012.

2. Because the Appellant did not wish to pursue the denial of the right to inspect or copy records to a hearing, the Hearing Officer concludes this issue has been abandoned, is moot and is subject to dismissal. This decision is made based upon the provisions of KRS 18A.095(18)(a). This statute reads in part: "The board may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief." Because the Appellant did not wish to pursue this issue any longer, the Board cannot grant any relief she is requesting.

RECOMMENDED ORDER

The Hearing Officer incorporates the Interim Order of September 5, 2012, and recommends to the Personnel Board that the appeal of **VICKI K. REED V. CABINET FOR HEALTH AND FAMILY SERVICES, (APPEAL NO. 2011-162)** be **DISMISSED**.

NOTICE OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are filed by the other party within five (5) days of the date on which the exceptions are filed with the Kentucky Personnel Board. 101 KAR 1:365, Section 8(1). Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal a circuit court will consider only the issues a party raised in written exceptions. See *Rapier v. Philpot*, 130 S.W.3d 560 (Ky. 2004).

Any document filed with the Personnel Board shall be served on the opposing party.

The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

Each party has thirty (30) days after the date the Personnel Board issues a Final Order in which to appeal to the Franklin Circuit Court pursuant to KRS 13B.140 and KRS 18A.100.

ISSUED at the direction of **Hearing Officer Mark A. Sipek** this _____ day of January, 2013.

KENTUCKY PERSONNEL BOARD

**MARK A. SIPEK
EXECUTIVE DIRECTOR**

A copy hereof this day mailed to:

Hon. Jennifer Wolsing
Ms. Vicki Reed